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and offices were conferred unsolicited by me, and most of them without my previous knowledge.

My character must be left to the World. I have lived in troublesome times, in an unsettled and tumultuous government: A good Judge cannot be very popular, but I believe, that my integrity has never been called in question, and it is certain, that no judgment of the supreme court of Pennsylvania since the Revolution has been reversed or altered in a single Iotta. A book of reports by Counsellor Dallas, is now in the press here and will be abroad in about two months, from which some judgment may be formed in the other States of our decisions. I will only add, that I am by habit and inclination the man of business.

Your Excellency will be pleased to excuse this particular self-detail, when it shall be considered, that if you think fit to advance me to this station, my reputation will become in a degree your interest, and my pretensions should be known.

Having lost by depreciated Congress-money upwards of six thousand pounds of my own acquiring (for I have been the maker of my own fortune) I have a wish to recover in some honorable way at least a part of it, for the sake of eight promising children; however, tho' not affluent I am still above the fear of want, and I owe no man anything but good will.

This having been a sudden resolution, I have not dropped the least hint of it to any person whomsoever. With respect to the Senators, I am personally known to most of them, and flatter myself not to my disadvantage; but in this opinion I may be mistaken, for the politics of some of them did not co-incide with mine. However I mean not to trouble them.

For this freedom I must trust to your great goodness. It is (tho' I am not three years younger than Your Excellency) my first essay of the kind. If you shall approve of this overture, I promise you to execute the Trust with assiduity and fidelity and according to the best of my abilities; the only return that I can make, and that, I know, you wish for. There is but one thing more I have to say, and that is, if you should make a single Enemy, or loose a single friend by gratifying my desire, I most sincerely beg you will never spend a thought on the subject; for I profess myself to be, with the utmost attachment and regard,

Sir,

Your Excellency's
most obedient and most humble serv^t:
THO M : KEAN

HIS EXCELLENCY GEORGE WASHINGTON ESQUIRE.

3. A Committee of the Massachusetts Legislature on Additional Amendments to the Federal Constitution, 1790.

At the same time when the twelve amendments submitted by Congress to the states, in response to the demand for a "Bill of Rights," were under consideration in the Massachusetts legisla-

ture, and when all but three had received the preliminary approval of both houses, and when a joint committee had been appointed to report a bill or resolution for the ratification of the same, a second joint committee was appointed "to consider what further amendments are necessary to be added to the Federal Constitution and report." This motion originated in the Senate on January 29, 1790, and Josiah Thacher, Benjamin Austin, jr., and Samuel Fowler were named to serve on the part of the Senate. (*Journal of the Senate of Mass.*, Vol. X., p. 192; *Journal of the House*, Vol. X., p. 209.) On the report as submitted the name of Nathan Dane appears instead of that of Samuel Fowler. The House of Representatives, February 2, 1790, "concurred, and Messrs. Hill, Sewall, Goodman, and Bacon were joined to the Committee." (*Journal of the House*, Vol. X., p. 218.)

Although the committee on the amendments submitted by Congress does not seem to have reported, and the legislature failed to take any further action upon the same, the committee on the additional amendments submitted, before the end of the month, the subjoined report. In the *Senate Journal* for February 24, 1790, the following minute may be found: "Ordered that the clerk of the Senate cause 190 copies of the report of the Committee appointed to consider what further amendments are necessary to be added to the Federal Constitution to be printed forthwith for the use of the Senate." (*Senate Journal*, Vol. X., p. 256.) On the report is the following indorsement: "Referred March, 1790." Further action does not appear to have been taken. This report is of interest for several reasons: First, because of the nature of the amendments proposed, some of which had been previously recommended by the Massachusetts Convention, but had not been included in the series sent out by Congress to the states; second, because it indicates that the series of amendments proposed by Congress did not go as far as some, in Massachusetts as well as elsewhere, thought necessary in protecting the rights of the states and the people; third, because it reveals the doubts felt as to the practical working of a federal government; and fourthly, because of its presentation of some of the leading ideas of political science prevalent at the time.

HERMAN V. AMES.

[Archives of Massachusetts, Senate Documents 1145.]

The Committee of both Houses appointed to consider further amendments in the Constitution of the United States, report that they have carefully examined and considered the subject referred to them, they are fully of opinion that further amendments in that Constitution are necessary to

secure the liberties of the people, and the blessings of a free and efficient system of Government; and that such amendments ought now to be attended to and made more particularly, as will have a tendency to preserve the forms of a federal republic and to prevent a consolidation of the States. As this important subject is now brought before the legislature, and the people have a favorable opportunity to deliberate upon it, the Committee think it is proper for the General Court, at the present time, to suggest to the members from this State in Congress several principals of amendments, to be attended to as soon as the important business now before Congress will admit. It is with diffidence the Committee express their opinion on this very interesting subject, but as it is made their duty they have made it their endeavour to consider the objects referred to them with the attention they deserve—and though they think the States have been highly favoured in laying the foundations of a good Government; yet they conceive much is to be done, to define and complete the system.

The Committee in their enquiries have been influenced by those truths and principles which are held sacred in all free and enlightened Countries, and have inferred the proposed amendments from what they conceive to be the fundamental principles of a free and energetic system of Government for an extensive Community.

And they feel the fullest conviction, that the liberties and prosperity of the United States must rest on a general Government adequate to the common defense and general welfare, and on State or local Government constitutionally secured in their proper stations—and, therefore, that every good man will seasonably oppose a consolidation of the States; an event that must, probably, be attended with the loss of every thing dear to a free, virtuous, and manly people.

Your Committee believe it is a truth very generally admitted in this Country, that the greatest portion of political happiness is enjoyed in that equality which prevails in well regulated republics; that there is a constant effort in each order of men to destroy this equality to exalt itself and depress the others; to prevent the ruinous effect of which many checks must be engrrafted into the Constitution; and every part of the people have its constitutional influence and proper means of defense in the Government; and to this end, not only a Senatorial branch, but a full and substantial representation of the body of the people must be effectually provided for.

That it is a fundamental principle, that such a representation and power to lay and collect taxes; to form and controul the military forces of a community ought to go together in all cases, where not evidently impracticable—and that the legislatures of the society ought to be so formed that the sense of the majority therein may correspond with the sense of the major part of the people.

That the powers of those who govern ought to be accurately limited and defined by the instruments and compacts of association; and that

where the sovereignty is divided and qualified, and lodged in a federal head for certain purposes, and in local Governments to certain other purposes the line of distinction ought to be very carefully drawn to prevent encroachments.

On attentively examining the Constitution of the United States, the Committee are of opinion that the powers of the General Government in several instances are not well defined or limited; that there is not a just line of distinction drawn between them and the powers of the local Government; and that there is no such representation as before mentioned in the legislature of the Union.

It appears to the Committee that it is agreeable to the very essence and design of a federal system, that there be a general legislature composed of a few members and that a more numerous and substantial representation of the people be assembled in the State legislatures; and, therefore it follows, that councils of the Union must have a natural bias to vigor, order, and an aristocratical system of policy; and that the State Governments must have a like bias to popular liberty and popular measures. To make the democratic temper of the latter and the different temper of the former mutual checks on each other, and thereby conducive to the happiness of the whole, is peculiar, perhaps, to a republic like our's, and a part of political science yet, in some measure, to be learnt. In a single legislature the Senatorial and popular branches prevent the extremes of each other by mutual negatives in all or particular cases, and how far this fundamental principle can, with safety and propriety, be extended to a general and State Governments in a great republic, must require much discernment and reflection, time and experience to determine. The Committee conceive, however, that some important means to lessen the abuses of democracy on the one hand, and of aristocracy on the other now present themselves — by increasing and improving the representation in the General Government, and making some of the State Governments (if necessary) less popular they will become less destructive of each other; and by giving a negative in certain cases where practicable, each will be enabled to defend itself against the other and a medium between the extreme views of both be happily produced; and by limiting and defining powers, and by a proper distinguishing line, each may be kept in its proper place. As the Constitution now stands, the Committee are of the opinion it will cherish those natural inequalities among men, from which, will in time, result constitutional distinctions, or an uneasiness in the body of the people which, by sudden commotions, may endanger or demolish the whole system.

The Committee by no means agree with those who contend that the natural tendency of a system like our's, is toward an undue increase of the powers of the State Governments, nor with those who contend that the democratic temper of the people is a sufficient check upon the extensive powers of the general Government. Certain it is that this temper must tend to destroy all governments, if not constitutionally directed. It must

have its due weight in order to prevent the making of certain laws or irregularly operate to prevent their execution.

This subject of amendments is too extensive to be treated at large or in particular detail, the Committee, therefore, have more particularly in this report made it an object to bring into view such principles as appear to them to be deserving of more immediate attention. It appears to them to be a most important object duly to examine the legislative powers of Congress respecting internal taxes, the militia, peace establishments, regulations of elections, the federal Judiciary and federal Territories, and in various ways to check and limit those powers in their exercise. It is very obvious, that the legislative powers of the general Government as to these objects, may be so exercised, as in a short period of time, materially to alter the condition of the community, and the first principles of the Government, and it is, in the opinion of the Committee, equally obvious, that the body of the people ought to have some further and more effectual control of the formation of the laws, and over those who make the laws, relative to these subjects.

If it be necessary that Congress should retain and exercise the powers vested in that body; yet many useful checks may be provided,—merely to elect the Senators and representatives of a federal head can be but imperfect security to the body of the people against a system of politics very repugnant to their general sentiments—for it is clear that in a federal republic that the aristocratical part of the community will very generally be elected to administer the general Government.

In altering the Constitution all agree, that the body of the people in their state legislatures, or in their state Conventions, ought to be consulted; because, otherwise, the public opinion could not be known and all parts of the federal system be secure; and, perhaps, this principle, under different modifications, may well be applied to some few important cases in federal legislation.

The Committee are sensible the weakness and embarrassments of the confederation, and the many obstructions in the forms of Government in the United Netherlands are to be avoided; but a federal head possessing almost entire sovereignty, and noways checked by the local Governments, may be equally dangerous, and destructive of the system of which it is intended as a part. If a direct tax, a plan for forming the militia or a large peace establishment, should be proposed by the General Government, and be disapproved by a large majority of the state legislatures, ought such measures to be adopted?

Having made the foregoing observations the Committee submit the following principles of amendments for consideration, and that constitutional provision be made:

first, that Congress shall not interfere in the regulations of the election of its members, except in cases where the State Legislature shall neglect or refuse to make regulations; and that the qualification of Senators and representatives be expressly defined in the Constitution.

secondly, that Congress erect no Company with exclusive advantages of Commerce.

thirdly, that Congress have power to establish a uniform rule of inhabitancy or settlement of the poor of the different States throughout the United States.

fourthly, that republican forms of Government be established in the Districts which are or shall be ceded to the United States.

fifthly, that Congress shall by law provide for calling forth the *posse comitatus* for executing the laws of the United States.

sixthly, that the General Government exercise no power but what is expressly delegated.

seventhly, that a part of the internal resources of taxation be appropriated to the United States, and that a part thereof be exclusively reserved to the respective States, with such exceptions, however, and under such limitations as war and other extraordinary emergencies may require.

eighthly, that no system for forming the militia be established, and that no establishment of troops in a time of peace beyond a limited number be made, if disapproved of by a specified number of the State legislatures, within a limited time after the bills for those purposes shall be laid before them.

ninthly, that the Judiciary power of the United States may be more explicitly defined and more accurately distinguished from those of the respective States.

tenthly, that the Senate shall not possess all the executive and Judicial power now vested in that body.

eleventhly, that it be left to the several States to make compensation to their Senators and representatives respectively for their services in Congress.

twelfthly, that the State legislatures have power to recall when they may think it expedient their federal Senators and to send others in stead; and that the Senators be chosen all at the same time and for the term of four years.

In the foregoing investigations it has been the main object of the Committee to bring into view amendments which shall secure the blessings of freedom without injuring the nerves of Government.

As to internal taxes, the Committee further observe, that [if] there shall remain in all cases concurrent power in Congress and the respective State legislatures to tax the same objects, it will be impracticable for the Union or Separate States to estimate their revenues, and, consequently, to estimate, with any degree of certainty, on performing their respective engagements.

Permanently to secure the liberties and happiness of America the Committee believe a due modification of the legislative powers before mentioned, and further checks in the Constitution, are essential; as well as a fair and honest administration of the General and local Governments.

The Committee are convinced that the people of this State, when

they adopted the Constitution of the United States, wished for and expected other and further amendments, than those which have been recommended ; and that they are now anxious to have their liberties more explicitly secured to them.

After dilating on general principles, the Committee have brought into view more particular propositions, resting assured that from the principles laid down will result such amendments as will answer the just expectations of all our citizens.